Comments of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. Concerning Recent Procurement Events Held On Behalf of Commonwealth Edison Company and the Ameren Illinois Utilities

Section 16-111.5 of the Illinois Public Utilities Act (the "Act") includes various provisions relating to the procurement of electric power and energy for Commonwealth Edison Company ("ComEd"), as well as Ameren Illinois ("Ameren"). Among those provisions are requirements for the Illinois Power Agency ("IPA") to file a procurement plan for electric power and energy acquisition for those customers that are eligible to take fixed-price electric service from ComEd and the Ameren Illinois Utilities for the supply period of June 1, 2011 – May 31, 2012 ("Procurement Plan"). Consistent with the Act, the IPA filed its Procurement Plan with the Illinois Commerce Commission (the "ICC" or "Commission"). The Procurement Plan was open to comment and debate by interested parties before the Commission. In the Commission proceedings, certain aspects of the Procurement Plan were subject to input from Commission Staff and other interested parties. At the conclusion of those proceedings, the Commission entered an Order approving the Procurement Plan with certain modifications (ICC Docket No. 10-0563).

Pursuant to that Order, ComEd and Ameren engaged third-party procurement administrators to conduct sealed-bid requests for proposals ("RFPs") for energy, capacity (Ameren only), and Renewable Energy Certificates ("RECs").[1] The results of the five (5) RFPs were approved by the Commission after being supervised by a Commission-hired procurement monitor, Boston Pacific Company, Inc.

[1] Although the Order approved an RFP process for renewable energy credit and energy swap contracts (bundled together) with ComEd and Ameren extending 20 years into the future from June 2012, such RFP has not taken place and is therefore not addressed in these comments.

In addition to review and approval of the Procurement Plan, Section 16-111.5(o) of the Act states:

> On or before June 1 of each year, the Commission shall hold an informal hearing for the purpose of receiving comments on the prior year's procurement process and any recommendations for change.

In fulfillment of this requirement, the Commission provided public notice issued June 1, 2011, of its intent to hear all interested parties' comments relating to the above-described procurement process and its five procurement events.

I. BACKGROUND

Constellation Energy Commodities Group, Inc. ("CCG") is a power marketer authorized by the Federal Energy Regulatory Commission to sell energy and capacity and certain ancillary services at market-based rates. CCG focuses on serving the needs of distribution utilities, co-ops and municipalities that competitively source their load requirements. CCG also sells natural gas and other commodities at wholesale, both in the United States and abroad, and holds interests in exploration and production companies. CCG does not own any physical assets for the generation, transmission, or distribution of electric power and has no retail electric customers or service territories. However, CCG bids energy, capacity and ancillary services on behalf of generation-owning affiliates into the markets administrated by PJM Interconnection, L.L.C. ("PJM") and the Midwest Independent Transmission System Operator, Inc. ("MISO").

Constellation NewEnergy, Inc. ("CNE") provides electricity and energy-related services to retail customers in Illinois as well as in 15 other states and the District of Columbia, and serves over 14,000 megawatts of load and over 10,000 customers. CNE holds a certificate as an alternative retail electric supplier ("ARES") from the

Commission to engage in the competitive sale of electric service to retail customers in Illinois. Since the introduction of customer choice in the Illinois electric industry in 1999, CNE has actively participated in the Illinois retail market. CNE has actively participated in nearly every regulatory proceeding before the Commission involving electric industry restructuring and has served as an advocate for fair and competitive open markets that are designed to provide customers with an array of competitive options.

The most recent round of procurements in Illinois, which attracted a large number of qualified bidders and ultimately winning bidders, demonstrates the benefits of the competitive procurements when part of a well-run process.

II. SUMMARY OF RECOMMENDATIONS

CCG was an active participant in the Commission proceedings that resulted in the adoption of the Procurement Plan as well as all of the related activities leading up to each of the procurement events currently under review. CCG submitted bids in several of the procurement events, and was one of the winning bidders in two of those events. Based on its experiences in the recent procurement events, as well as its expertise over the years in other procurement events in Illinois and other jurisdictions, CCG proposes the following overarching recommendations for improvements to the future procurement processes to be overseen by the Illinois Power Agency ("IPA"):

- Use Full Requirements Products To Minimize Customer Risks;
- Establish a Clear Procurement Schedule;
- Improve the Plan Process and Content;
- Reduce Regulatory Uncertainty;
- Streamline the Application, Credit, and Contracting Processes;
- Streamline REC Procurement; and
- Provide Flexibility For Bidder Signatures.

III. ARGUMENT

A. Use Full Requirements Products To Minimize Customer Risks

In order to procure supply required to meet the needs of "eligible retail customers", as defined within the Public Utilities Act, the IPA should conduct future procurement events that rely upon the use of full requirements ("full requirements") products. The IPA is given discretion to procure products individually, or in combination.[2] The IPA should take into consideration the fact that customers bear greater risk with separate block products, because the shape and quantity of the load is not known, and should adjust future procurement plans accordingly by procuring full requirements contracts.

The benefits offered by a full requirements approach have never been greater than this upcoming procurement cycle due to the likelihood that the number of utilities' bundled customers and underlying load will be reduced -- potentially dramatically -- during that time. The advent of purchase of receivables/utility consolidated billing, an increasing number of ARES indicating an interest in serving residential and small commercial customers, and the development of various websites and referral programs, among others, support the proposition that "the policy of supporting competitive electricity markets will continue and strengthen, and that eligible retail consumers currently served through the IPA portfolio migrate towards ARES options." (2010 Plan, p. 9). As the IPA acknowledges, these "recent developments indicate that significant reductions to the barriers to retail competition in residential markets are on the near-term horizon." ((*Id.* at 15). As a result, "[t]he portfolio is exposed to load uncertainty risk." (*Id.* at 14).

[2] 220 ILCS 5/16-111.5(b)(3)(iii).

The Full Requirements Approach Best Fulfills the IPA's Statutory Mandate

A full requirements approach will best meet the requirements of Illinois law. It is important to keep in mind that "costs" to customers may include not only the prices paid by customers for IPA-procured supply, but the risks and lost opportunities they may face under a particular IPA plan. A full requirements approach will limit risks to customers by shifting them from the IPA, ComEd and Ameren to wholesale suppliers, while promoting opportunities for customers by providing well-defined, competitively-procured default service supply that provides appropriate benchmarks for comparisons to product offerings of retail electric suppliers ("RESs").

As risks and costs to ComEd and Ameren appropriately are passed on to its customers, it follows that the full requirements approach limits the risk to utilities' customers by shifting them largely to full requirements product suppliers. To explain, full requirements products provide consumers with insurance for the duration of the contract by shifting risk to wholesale suppliers. The situation faced in 2008 by Wellsboro Electric Company ("Wellsboro") – a Pennsylvania utility procuring its default service requirements through a managed portfolio approach – provided documented evidence as to the benefits of shifting such risk; Wellsboro faced a market "surprise" and had to seek permission from the Pennsylvania Public Utility Commission on January 30, 2008 to recover in excess of $2 million in additional congestion costs from its customers because of an unexpected congestion event.[3] Wellsboro's customers did not have the "insurance" provided by a full requirements supplier for such an event and, as a result, had to bear the

[3] *See Joint Statement of Commissioner Kim Pizzingrilli and Vice Chairman James H. Cawley*, Commission Docket No. P-2008-202057 (issued Feb. 28, 2008) ("Wellsboro Feb. 2008 Decision") at p.1.

burden themselves for the surprise rise in costs, as the Pennsylvania Public Utility Commission approved the pass through of such costs on February 28, 2008.[4]

An IPA plan relying on full requirements products provides a proper balance by obtaining the most competitive prices for consumers, while appropriately placing risks such as volume risk on wholesale suppliers. Support for this notion comes from an important study on Pennsylvania's energy future by Dr. Susan F. Tierney, a nationally recognized energy policy expert, former Assistant Secretary for Policy at the U.S. Department of Energy, and former Commissioner at the Massachusetts Department of Public Utilities.[5] Dr. Tierney documents that, through competitive full requirements procurements, wholesale suppliers bring many benefits because of their abilities and skills.[6]

Bidders Possess Superior Expertise In Managing Portfolios

A diverse pool of wholesale full requirements product suppliers provide the most cost-effective method of management for eligible retail customers. Under full requirements product procurements, utilities provide to potential bidders prior to procurements, and to winning bidders on an ongoing basis afterwards, all of the load data for their individual customer classes. Wholesale suppliers are specialists in the area of portfolio management, and have greater resources, expertise and ability to appropriately utilize this data to manage portfolios of supply at the least possible cost, by allocating the costs for their operations over much larger load obligations throughout the country.

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4 *See* Wellsboro Feb. 2008 Decision at p.1.

5 *See Pennsylvania's Electric Power Future: Trends and Guiding Principles*, Susan F. Tierney, Ph.D., Analysis Group (January 2008) ("2008 PA Market Study").

6 *See* 2008 PA Market Study at p.11 (stating that full requirements service "taps into the abilities and skills" of different wholesale market participants).

Moreover, such suppliers are able to draw from their substantial experience throughout PJM, MISO and in other jurisdictions to develop proprietary models of customer behavior and switching patterns, to refine these models, and to better analyze the local data provided by utilities. These wholesale suppliers pass on the efficiencies they achieve due to their sophisticated risk management skills and experience in the form of more competitive bids for full requirements products in competitive procurements. Wholesale suppliers have already invested in, and continue to make significant investment in acquiring, experts in each specific type of market which makes up full requirements supply.

At Constellation, for instance, hundreds of employees are involved in the process of providing full requirements service to utilities and customers around the country, serving tens of thousands of megawatts of various types of full requirements load from coast to coast. Constellation employs a team of seasoned portfolio managers for large regional portfolios that serve Constellation's customers' full requirements loads. Constellation must ensure that any transaction that goes into Constellation's entire portfolio of obligations is accounted for at the end of each day, and that requirements for the entire load are met continuously for every hour of every day of every week. A team of strategists continuously develops and improves computer models to keep track of all of the variable inputs that go into providing full requirements service; these strategists provide and analyze various scenarios that Constellation's portfolio managers may face. In addition, a fundamentals group constantly researches basic supply and demand in fuel and power markets in order to monitor macroeconomic trends that affect the costs of serving load. A 24-hour power trading desk trades power in the hour ahead, day ahead,

and week ahead markets each day of the week, in order to help manage Constellation's supply portfolio. Moreover, power managers and traders monitor and trade in not only the PJM and MISO markets, but also those in New York, New England and other markets throughout the U.S.; fuel managers do the same as fuel markets have direct effects on power markets. Similar resources focus on fuel oil, natural gas, coal, currency, emissions and renewable energy markets. Full-time meteorologists on Constellation's team continually monitor and predict the weather, so that Constellation's team can plan for weather effects on load requirements, and adjust supply accordingly. The task of meeting full requirements load supply additionally requires controllers, schedulers and dispatchers. Supporting all of these operations is a team of regulatory specialists and attorneys that monitor and participate in regulatory and legal activities which affect energy markets.

A wholesale supplier's greater expertise in these activities represents a valuable asset in evaluating and engaging in transactions for not only for complex hedges and other energy products, but for more common products in a portfolio such as block and spot market purchases. Increased levels of expertise and the ability to take on and manage a large portfolio's risks and responsibilities enable a wholesale supplier such as Constellation to provide significant competitive benefits over a smaller, less sophisticated market participant. Moreover, a wholesale supplier has the added expertise necessary to enter into more complex transactions which can provide additional appropriate management and hedging tools to further drive down costs.

Each of the tasks and positions described for Constellation's team plays an integral role in being able to drive down a wholesale supplier's costs of meeting load

requirements and provide the most reliable, up-to-the minute improvements and adjustments to a portfolio of resources, from which all of the supplier's customers will benefit. Without the benefits of accurate and around-the-clock weather monitoring and predicting, if an IPA plan estimates a need and purchases block products ahead of time to meet a utility's expected eligible retail customer load for the summer, one can, for instance, evaluate a situation where there happens to be an unusually hot week in the middle of July. The utility may face a situation where, because of the unusually hotter weather, homes and businesses are requiring *much* more electricity to run their air conditioners. If the IPA plan did not accurately predict how much load it would have in that week, because of that inability to accurately predict and react to the weather, the utilities may face a situation where they need to purchase in the spot market the additional supply that it requires at *high* electricity rates because, as demand for electricity increases around the region during a hot week, supply becomes constrained and prices for limited supply increase. The utility's consumers will bear the burden of the costs of this inability to accurately predict and plan for the weather in real-time.

Constellation and other wholesale suppliers continually monitor and predict the weather as part of their portfolio management function and are able to react in real-time and adjust supply accordingly and efficiently, with an incentive to keep costs low. The costs for all of the above types of expertise are mitigated significantly by utilizing a well-developed infrastructure and spreading the overhead for such activities across a supplier's entire portfolio of tens of thousands of megawatts of supply obligations across the country. Additionally, the costs for full requirements product suppliers to provide such service for a utility's eligible retail customers will be highly constrained by the very

competitive nature of this business, because wholesale suppliers throughout the market have operations similar in structure to those of Constellation, and will compete to serve a utility's eligible retail customers at the lowest cost. In addition, it is important to point out certain significant results from a recent analysis ("2010 Procurement Structure Analysis") conducted on behalf of Narragansett Electric Company d/b/a National Grid's ("National Grid"), and filed in the Rhode Island Public Utilities Commission's ('RIPUC") proceeding to consider National Grid's procurement structure for Standard Offer Service ("SOS"), Rhode Island's equivalent of utility supply service to eligible retail customers.[7] The 2010 Procurement Structure Analysis provides an important and unique technical assessment based on advanced modeling, to compare and contrast "the relative costs and risks of different approaches to serve mass market customers, and how different approaches could impact customers' supply rates."[8] While the Analysis suggests that a managed portfolio approach may, in fact, generally be cheaper than a full requirements structure, it is cheaper only by the narrowest of margins – *roughly only $0.72/MWh*.[9] However, for this very limited benefit in cost due exclusively to the price for supply, consumers will be faced with *considerably more costs due to increased risks*.[10]

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7 *Analysis of Standard Offer Service Approaches for Mass Market Customers*, RIPUC Docket No. 4041 (submitted Jan. 22, 2010) ("2010 Procurement Structure Analysis")

8 2010 Procurement Structure Analysis at p.2.

9 *See* 2010 Procurement Structure Analysis at p.12 and p.15 (explaining that the full requirements Structure results in an expected SOS rate of only $0.72/MWh more than an alternative Managed Portfolio Approach).

10 *See* 2010 Procurement Structure Analysis at p.20.

Any Incremental Premium Is Outweighed By Insulating Customers From Risk

Although wholesale suppliers bidding on full requirements products may indeed place a certain value on the risk that they assume, for instance, for customer migration, the calculation for this monetization will depend on an individual wholesale supplier's perception of the level of such risk, its ability to manage the risk and its appetite for assuming the risk. By removing the potential for monetization and management of this risk by suppliers, a managed portfolio approach takes the actual risk and places it on consumers. In other words, it is a zero sum game. Customers bear each "cost," either in the price or in the form of an assumed risk. This type of shifting of risks directly to consumers fundamentally alters the nature of the product being provided .

Proponents of a managed portfolio approach often make claims that these monetizations and costs are exclusive to full requirements products. This claim, however, represents the false assumption that products such as block products in a managed portfolio approach will avoid (or else place on customers) most of the risks that are monetized in a full requirements product. In fact, block products include all of the same risks – and, in turn, monetization of risks – as full requirements products for items including, but not limited to, rising fuel costs, inflation, new energy taxes, market rule changes, market price changes prior to bid acceptance, and changes in credit standing. It follows that the only risk that may not be priced into the costs for block products is that of load variation, including variation due to customer migration. However, as explained above, if the fixed costs for the added benefits of full requirements products – *including* for load variation – are highly constrained through the competitive nature of full requirements product procurements, then it would be difficult to imagine that a managed

portfolio approach could result in more competitive prices than those achieved under the full requirements product procurements.

Detractors of full requirements structures also often suggest that a profit is added into a bid which is otherwise avoided when purchasing other products that may be procured under a managed portfolio approach. In reality, any product that is purchased in the wholesale markets – e.g., whether a full requirements product, a block product or a spot market purchase – will include in its price some level of profit that the supplier is willing and able to receive. Basic economic principles suggest that this is the case. When a seller sells a product – whether he is selling oranges, widgets or electricity – he seeks a return on his costs of producing the product. Basic economic principles also suggest that the price that a seller is "willing" to sell his product for will be constrained by the price he is "able" to sell his product for, so that in a competitive procurement, where only the lowest price from a pool of sellers is accepted, each seller will have an incentive to drive down the price at which he is "willing" to sell his product. This competitively constrained price for a full requirements product will include a seller's perceived monetizations of risk as well as a profit on the overall full requirements product. Depending on a supplier's perception of the level of risks, its ability to manage risks and its appetite for assuming risks, a supplier may have an ability to drive down further its underlying costs and overall prices. This especially is true for suppliers that are able to spread their costs across a large portfolio of supply obligations – if a supplier experiences lower revenue or a loss due to one of its obligations, for example, it is able to offset it against earnings across its entire portfolio of obligations. A utility relying on a managed portfolio approach has neither the competitive incentives to drive down its costs

for managing risks nor the ability to hedge its obligations and costs across a broad, multi-regional portfolio.

Finally, it is important to keep in mind that all of these allegations against full requirements products regarding relative costs appear not to be borne out when carefully analyzed – once again, the well-developed 2010 Procurement Structure Analysis suggests that the difference in consumers' prices for accepting the costs of increased risks under a managed portfolio approach rather than placing such risks on suppliers through a full requirements structure is roughly *only* $0.72/MWh.[11]

As outlined above, reliance upon full requirements products achieves several benefits. The IPA can best access competitive wholesale markets by procuring full requirements products, rather than by trying to purchase individual components of service (*i.e.*, energy, capacity, RECs, etc.) on its own.

Constellation recognizes that a transition to a full requirements product cannot occur overnight. To that end, Constellation recommends that a full requirements product be used for 25% of that which is to be procured in the current procurement cycle, which will allow Illinois to achieve some of the benefits associated with a full requirements product. At the same time, it will provide the IPA and the Commission with a direct comparison of a full requirements product versus the current block product approach, such analysis having been lacking to date. Moreover, using a full requirements approach for a portion of the load in this year's Plan will permit an orderly transition to a full requirements product under the current laddered approach.

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[11] *See* 2010 Procurement Structure Analysis at p.12 and p.15 (explaining that the full requirements product structure results in an expected SOS rate of only $0.72/MWh more than an alternative Managed Portfolio Approach).

B. Establish a clear procurement schedule

Many of the 2011 procurements took place several weeks later than those same procurements had occurred in the past and were the latest in history since the creation of the IPA in 2007. That timing undoubtedly contributed to approved utility tariffs regarding new rates being made available by ComEd a mere one day before those rates went into effect. Upon completion of the procurements, utilities must run the numbers through their respective rate translation mechanisms to arrive at a particular price per kWh for bundled service customers. Holding procurements so close in time to June 1st, necessarily backs up the timeline of when those new rates can effectively be published.

Delays in release of the tariffs and charges cause substantial confusion and competitive harm in the retail market. This was the first year in which there has been meaningful opportunity for switching to retail electric suppliers in the residential market. There are currently thirteen (13) RESs licensed to serve residential customers in ComEd's service territory, and eight RESs licensed to serve residential customers in the Ameren Illinois service territory. (http://www.pluginillinois.org/res.aspx). RESs may have found it difficult to go to market with offers that were attractive to customers, given that changes to utility bundled rates were imminent, but without knowledge as to those revised rates and tariffs.

To that end, to the extent that procurements are to occur in the same year as the start of the new June-May cycle, the procurement events should be held in late February or early March. Holding all procurement events during that time will have no material negative impact on the procurements themselves, and the timing will benefit suppliers and, ultimately, retail customers. Future Commission Orders approving the IPA plan

should establish a schedule that permits calculation of new rates sufficiently in advance of their effective date, and require that utilities file and make available approved tariffs and charges not less than two weeks before new rates go into effect.

C. Improve the Plan Process and Content

The schedule under which interested parties have to review and comment on the Informal Draft Plan, and later to file objections to the formally Filed Plan, is extremely compressed, to say the least. There is little time for meaningful analysis or thorough explanation of new elements during that time. Consequently, the IPA and the Commission should focus on making minor process improvements that have the potential for significant material benefit for future Plans. These include:

- The IPA should identify interested parties and proactively seek out comment and input from parties likely affected by IPA proposals prior to release of the Informal Draft Plan.
- The Informal Draft Plan should indicate, in legislative style, specific changes as compared to the most recent Commission-approved Plan, as should the Filed Plan as compared to the Informal Draft Plan.
- The Informal Draft Plan and Filed Plan should include proposed bidding rules, bid documents, standard form contracts, and credit documents and policies, thereby allowing prospective bidders to understand the specifics of the upcoming procurements and suggest refinements.
- The IPA should provide RESs with courtesy copies of the Draft Plan and Filed Plan.
- The Commission should reject material changes made between the Informal Draft Plan and the Filed Plan, as the time frames provided do not allow a thorough analysis of any mid-stream proposed changes.
- The Commission may direct the IPA to undertake additional research on specific IPA proposals for which the Commission finds evidentiary support lacking, requesting that the IPA provide a report back to the Commission with the results of such research in a format and by a date acceptable to the Commission.

D. Reduce Regulatory Uncertainty

The time period between the submission of bids and the timing that potentially winning suppliers are notified should be shortened, to the greatest extent possible. Both the IPA and the Commission are to be commended for reducing the time period between submission of bids and contract execution. The IPA Plan resulted in submission of potentially winning bids in a shorter time frame than the outside limits established under the law, and the Commission likewise expeditiously evaluated and approved the results of the procurement events during this most recent procurement cycle. However, further improvements can be made in shortening the time period for "informal" notification to potentially winning bidders.

The longer that bids must remain open, and be subject to the possibility that bids will be renegotiated or rejected during a review process that does not define the criteria for such renegotiation or rejection, the greater the likelihood that consumers will ultimately be economically harmed. While bids are held open during the review process, bidders retain the risk that market prices will change suddenly or unexpectedly. This risk is particularly important in procurement events involving Block Energy Products, given the volatility in today's market. Potential suppliers have to incorporate such risks in their bids to account for this time lag. These risks will necessarily translate into bid prices.

Decreasing the length of time between submission of the bid and notification of likely bid award decreases the risk that suppliers bear, which would likely lead to lower overall bid prices. Such a result is consistent with the legislative mandate that:

> The Commission shall approve the procurement plan if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and

> environmentally sustainable electric service **at the lowest total cost over time**, taking into account any benefits of price stability.[12]

Given that the Block Energy Products are standard wholesale energy products, the review of these bids should be relatively straightforward, and should not require negotiation or additional review time. Constellation appreciates the efforts by the procurement administrators to convey their recommendations to the Commission expeditiously, and the Commission's prompt action in reviewing those recommendations. However, any time that can be shaved off of the current process is of benefit to suppliers, and therefore ultimately will inure to the benefit of ratepayers.

In the most recent procurements, bidders were likely required to hold their bids open over the weekend, given a late Friday afternoon notification of likely winning bidders. The Commission should endeavor to tighten that window. Ideally, bids would be submitted in the morning with results as to likely winning bidders provided that same day. The review of bids for standard Block Energy Products should be relatively straightforward, and should not require additional time. At most, next day notification of likely winning bidders should be provided. Scheduling procurements for earlier in the week (preferably Monday or Tuesday) will best ensure that bidders will not need to hold prices open unnecessarily over a weekend. This is of particular importance for the energy procurement, in which there is the greatest price volatility.

E. Streamline the Application, Credit and Contracting Processes

Constellation recognizes and appreciates the strides that have been made through previous procurement cycles for improvements in standardizing products and contracts,

[12] 220 ILCS 5/16-111.5(d)(3) (emphasis added).

and recommends that the IPA and the Commission take this opportunity to make further refinements in this year's Plan.

The process could benefit from streamlining and standardizing contracts. The three products are currently procured under three distinct contracts - one for energy, one for capacity, and a third for RECs. New "master agreements" are entered into each year for each product, with language in the agreements inserted to try to tie them together, both across products and across years. Entering into new contracts for each product each year is inefficient. The master agreement should be a true master agreement – there should only be one agreement, containing separate confirmations for each product. Each year, additional confirmations could be entered into pursuant to the same master agreement. The master agreement could and should be used for procurements in multiple years, updating as necessary through the amendments during the annual process, rather than entering into new contracts with slightly different contract terms each year. Using a single master agreement to procure all products across multiple years would significantly reduce the administrative burden on bidders, the procurement administrator, the procurement monitor, and the Commission. Reducing the administrative burden on bidders could potentially lead to an increase in the number of bidders and a decrease in the cost of the products procured.

F. Streamline REC Procurement

Although the Commission has made improvements between and among the REC procurements over the years, it could benefit from further streamlining. Previous year's REC procurements were held on different days, which was not optimal in that it resulted in different clearing prices for essentially the same product. However, bidders were able

to submit bids in the second procurement with knowledge of what had cleared in the first procurement. Currently, REC bids are due on the same day and at the same time in two separate procurements, both using different forms. Additionally, bidders must determine how much to bid into each separate procurement, once again resulting in the exact same product clearing at different prices. Given the nature of the product, there should be a single procurement process for both utilities, with the procurements linked, essentially acting as a single procurement. Bidders would submit a single form, and would submit a single bid that would be applicable to both utilities. The volumes for the winning bids would be split between ComEd and Ameren proportionately, based on the utility's individual REC requirements procurements, thus resulting in procurements that would clear simultaneously and optimally,.

G. Provide Flexibility For Bidder Signatures

Given the number of forms to be signed at different times throughout the procurement process, the bidding rules should allow for some flexibility. Currently, ComEd requires that the same officer of a bidder sign each of the following forms: Part 1 Form, Part 2 Form, Master Agreement, Confirmation, and Supplier Fee Binding Agreement. Strict adherence to such a policy fails to recognize the fact that the same person may not be physically in the office each day, due to business travel, personal vacation, or unforeseen events. Ameren's rules take these exigencies into account, permitting a secondary signatory if the original signatory is unavailable for whatever reason; ComEd should be required to do the same.

IV. CONCLUSION

Constellation recommends that future procurement plans and procurement events conducted by the Illinois Power Agency and evaluated by the Commission reflect these improvements to the procurement process. Constellation is confident that its recommendations will promote continued development of Illinois' competitive retail markets, for the ultimate benefit of Illinois consumers.

Respectfully Submitted,

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